

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

TECHNICAL EDUCATION –Appeal Petition filled by M/s. Velagapudi Ramakrishna Siddhartha Engineering College, Vijayawada against the Procs. of Director of Technical Education dt.23.4.2007 - Appeal Petition upheld – Orders – Issued.

HIGHER EDUCATION (EC.2) DEPARTMENT

G.O.Rt.No. 1109

Dated:12.11.2008.

- 1) DTE Progs.No.E4/17159/2003 (D.Dis), dt.23.4.2007.
- 2) From M/s. Velagapudi Ramakrishna Siddhartha Engineering, Vijayawada Appeal petition dt.18.6.2007.
- 3) Orders of Hon'ble High Court of Andhra Pradesh Dt.19.12.2007 in WP No.24422/2007 and in WA No.1075/2007.

O R D E R:

The Management of the V.R.Siddhartha Engineering College, Vijayawada removed Sri M.Sambasiva Rao, Asst. Librarian from the services with effect from 18.9.2003 on the charges of misappropriation while discharging duties as Asst. Librarian.

2. In consequence of the removal orders, Sri M.Sambasiva Rao has filed Appeal Petition before the Commissioner of Technical Education, Andhra Pradesh, Hyderabad under section 80 of A.P. Education Act,1982.

3. The Commissioner of Technical Education, Andhra Pradesh, Hyderabad has set aside the removal orders vide his Proceedings in the reference 1st read above with a liberty to the Management to proceed with the disciplinary proceedings from the stage of issuance of charges and appointing an Enquiry Officers as per law.

4. Aggrieved by the Proceedings of the CTE in the reference 1st read above, the Management of the V.R.Siddhartha Engineering College, Vijayawada filed Second Appeal before the Government u/s 81 of the A.P.Education Act, 1982.

5. The Hon'ble High Court of Andhra Pradesh in their order dt.19.12.2007 in WP No.24422/2007 and WA No.1075/2007 filed by the Management of the V.R.Siddhartha Engineering College has directed the Government to dispose of the appeal filed by the management within two months and the management has to pay to Sri M.Sambasiva Rao every month an equal amount of his last pay drawn till disposal of such appeal.

6. Based on the above Appeal, notices were issued and personal hearing was given to the Management as well as Sri M.Sambasiva Rao on 19.3.2008. Both the parties have appeared before the Principal Secretary to Government and submitted their contentions.

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7. After perusal of the records & hearing both the parties the following is observed:-

- (a) It is observed that it is not the case of the 1st Appellate Authority i.e., the Commissioner of Technical Education that any of the grounds mentioned under Section 80 of the A.P.Education Act, 1982 is not present in this case.
- (b) The contention of the Commissioner of Technical Education that the Enquiry Committee contained members who are not superior in rank to the Accused Officer is not tenable. All the three members of the Enquiry Committee are in the grade / rank of Lecturers which is superior to that of the Accused Officer, who is 'Asst. Librarian'. The fact that they belong to some other Educational Institution does not act as a base against being appointed as Enquiry Officers. It is not mandatory, as per any statutory rule brought to the notice of Government, that the Enquiry Officer must be holding a post in a superior rank in the same Educational Institution as that of the Accused Officer.
- (c) The Enquiry Committee, basing on the material records has framed (10) charges through its charge memo. Dt.26.12.2001 and, after giving opportunity to the Accused Officer for filing his explanation / defence statement has enquired into the charges and submitted its report. The Show Cause Notices issued earlier by the Management on 15.5.2000 and 6.6.2001 are to be ignored for the purposes of the Enquiry Report basing on which the impugned action has been taken by the Management. Hence the impugned orders of the Commissioner of Technical Education making it a valid ground for rejection of the appeal petition is not tenable.
- (d) It is evident that the final order of dismissal was imposed by the management basing on the findings in the Enquiry Report. The mention of the proposed punishment i.e., 'stoppage of two annual increments' with cumulative effect besides recovery of an amount of Rs.158151.85 + Rs.10,764/- towards cost of books' by the Management in its Show Cause Notice, dt.6.6.2001 was totally unnecessary. It is also not material considering that the enquiry was conducted after issuing a fresh Show Cause Notice by the Enquiry Committee.
- (e) The Management did seek prior permission u/s 79 of A.P. Education Act, 1982 on 12.8.2003 from the Commissioner of Technical Education for imposition of the punishment of removal from service but the same was considered not necessary by the Commissioner of Technical Education in view of the decision of the Apex Court in TMA Pai Foundation and the same was also communicated to them. Hence, the action of the 1st Appellate Authority in holding that non compliance of the provisions of this section vitiates the disciplinary case and the punishment imposed cannot be supported.

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8. Considering all the above the Government, after careful examination of the entire matter hereby set aside the orders of the Commissioner of Technical Education in proceedings No.E4/17159/2003 (D.Dis), Dt.23.4.2007 and the proceedings O.C.No.1992/03, dt.18.9.2003 of the petitioner Management is accordingly upheld.

9. The Commissioner of Technical Education, Andhra Pradesh, Hyderabad shall take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Secretary & Correspondent, V.R.Siddhartha Engineering College,
Vijayawada – 520 007.

The Commissioner of Technical Education, Andhra Pradesh,
Hyderabad.

Sri M.Sambasiva Rao, 7-35, Jabili Road, Poranki – 521 137.

Penamaluru Mandal, Krishna District.

The Government Pleader for Higher Education, A.P.High Court,
Hyderabad (w.r.t. orders in W.P.No.24422/2007 and in WA No.1975/2007)

Copy to:

The Principal, V.R.Siddhartha Engineering College,
Vijayawada – 520 007.

SF/SC.

//Forwarded by Order//

SECTION OFFICER